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Attorneys for Plaintiff/Counterdefendant
SANDISK CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SANDISK CORPORATION,

Plaintiff,

vs.

LUCENT TECHNOLOGIES INC. and
ALCATEL-LUCENT, S.A.,

Defendants.

AND RELATED COUNTERCLAIM

Case No.: C 07 03618 JF

**DECLARATION OF
GREGORY L. LIPPETZ IN
SUPPORT OF
PLAINTIFF/COUNTERDEFENDANT
SANDISK CORPORATION'S
MOTION FOR SUMMARY
JUDGMENT**

1 I, Gregory L. Lippetz, declare as follows:

2 1. I am an attorney duly admitted to practice before this Court, and am a partner at
3 Bingham McCutchen, LLP, Counsel for SanDisk herein. This declaration is submitted in
4 support of SANDISK'S MOTION FOR SUMMARY JUDGMENT. If called as a witness I
5 would and could testify to the following:

6 2. Attached as Exhibit A is a true and correct copy of a document entitled Order
7 Granting (1) Dolby's Motion for Summary Judgment of Noninfringement of U.S. Patent No.
8 5,341,457 and (2) Dolby's Motion for Summary Judgment of Noninfringement of U.S. Patent
9 No. 5,627,938 issued on April 22, 2005 in *Dolby Laboratories, Inc., et al. v. Lucent*
10 *Technologies Inc., et al.*, Case No. C 01-20709 (RS).

11 3. Attached as Exhibit B is a true and correct copy of a document entitled Order
12 Affirming District Court Judgment in *Dolby Laboratories, Inc., et al. v. Lucent Technologies*
13 *Inc., et al.*, 202 Fed. Appx. 459 (Fed. Cir. 2006).

14 4. Attached as Exhibit C is a true and correct copy of a document entitled Order on
15 Microsoft's Motions for Judgment as a Matter of Law and New Trial and Lucent's Motion to
16 Alter or Amend the Judgment Regarding U.S. Patent Nos. 5,341,457 and RE 39,080 issued on
17 August 6, 2007, in *Lucent Tech., Inc. v. Gateway, Inc.*, Case No. 3:02-cv-02060 (RWB).

18 5. Attached as Exhibit D is a true and correct copy of a document entitled Order On
19 Motions for Summary Judgment In Group 2 issued on January 11, 2007, in *Lucent Tech., Inc. v.*
20 *Gateway, Inc.*, Case No. 3:02-cv-02060 (RWB). (Also available at 2007 U.S. Dist. LEXIS
21 57135).

22 6. Attached as Exhibit E is a true and correct copy of a document entitled Minutes of
23 November 17, 2005, Hearing, in which the court split patents into five groups in *Lucent Tech.,*
24 *Inc. v. Gateway, Inc.*, Case No. 3:02-cv-02060 (RWB).

25 7. Attached as Exhibit F is a true and correct copy of a document entitled Minutes of
26 August 10, 2006, Hearing in which the court substituted U.S. Patent No. RE39,090 for U.S.
27 Patent No. 5,627,938 in *Lucent Tech., Inc. v. Gateway, Inc.*, Case No. 3:02-cv-02060 (RWB).

1 8. Attached as Exhibit G is a true and correct copy of a document entitled Amended
2 and Superseding Partial Judgment Regarding U.S. Patent Nos. 5,341,457 and RE39,080 Only
3 Following Summary Judgment, Jury Trial and Post-Trial Motions, issued on August 6, 2007, in
4 *Lucent Tech., Inc. v. Gateway, Inc.*, Case No. 3:02-cv-02060 (RWB).

5 9. Attached as Exhibit H is a true and correct copy of a document entitled Lucent's
6 Opposition to Microsoft's Motion for Judgment as a Matter of Law on the Group 2 Audio
7 Patents filed on June 1, 2007, in *Lucent Tech., Inc. v. Gateway, Inc.*, Case No. 3:02-cv-02060
8 (RWB).

9 10. Attached as Exhibit I is a true and correct copy of U.S. Patent No. 5,341,457,
10 entitled "Perceptual Coding of Audio Signals."

11 11. Attached as Exhibit J is a true and correct copy of U.S. Patent No. RE39,080,
12 entitled "Rate Loop Processor for Perceptual Encoder/Decoder."

13 12. Attached as Exhibit K is a true and correct copy of a document entitled Order
14 Construing Claims of U.S. Patents No. 5,341,457 and No. 5,627,938, issued on November 18,
15 2003, in *Dolby Laboratories, Inc., et al. v. Lucent Technologies Inc., et al.*, Case No. C 01-
16 20709 (RS).

17 13. Attached as Exhibit L is a true and correct copy of pages printed from the
18 websites titled "20 Years of Audio Coding at Fraunhofer IIS" and "Profile," printed from
19 <http://www.iis.fraunhofer.de:80/EN/bf/amm/mp3history/20jac.jsp> and
20 <http://www.iis.fraunhofer.de:80/EN/profil/index.jsp>.

21 14. Attached as Exhibit M is a true and correct copy of a page printed from the
22 website "About Thomson: Partner to the Media & Entertainment Industries," printed from
23 <http://www.mp3licensing.com/about/thm.html>.

24 15. Attached as Exhibit N is a true and correct copy of a document entitled
25 Stipulation Extending Defendants' Time to Answer Complaint, filed in this action on August 1,
26 2007.

27 16. Attached as Exhibit O is a true and correct copy of a document entitled Software
28 License Agreement between Microsoft Corporation, Fraunhofer and Thomson dated April 17,

1 1997, which was plaintiff's exhibit 34 in the trial of the Group 2 Audio patents in *Lucent Tech.*,
2 *Inc. v. Gateway, Inc.*, Case No. 3:02-cv-02060 (RWB).

3 17. Attached as Exhibit P is a true and correct copy of a letter from June M. Sulovski
4 of Alcatel-Lucent to Dr. Eli Harari of SanDisk dated May 11, 2007.

5 18. Attached as Exhibit Q is a true and correct copy of a series of e-mails between
6 SanDisk in-house counsel and Alcatel-Lucent in-house counsel dated June 4, 2007 through June
7 12, 2007.

8 I declare under penalty of perjury under the laws of the United States of America that the
9 foregoing is true and correct.

10 Dated: October 26, 2007
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12 By: /s/ Gregory L. Lippetz
13 Gregory L. Lippetz
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